(Mass.) 341. In the principal case no difficulty arises on the question of notice. Accordingly, if there was an intention to bind the land at the time of the contract of sale, equity should enforce the agreement in spite of the conveyance of the prospective dominant tenement to a third party before the completion of the contract. *Barrow* v. *Richard*, 8 Paige (N. Y.) 351. The court, however, decided against the existence of any such intention, partly upon the ground that preliminary agreements will not be considered when the transaction has been embodied in a formal instrument. *Leggott* v. *Barrett*, 15 Ch. D. 306. The view of American courts on this matter is more liberal, and it is quite probable that they would come to a different result on this basis. *Parker* v. *Nightingale*, *supra*. Not finding such an intention, the principal case seems correct in holding that the conveyance itself created no enforceable right. For such restrictive agreements really create equitable property rights, closely analogous to legal easements. *Peck* v. *Conway*, 119 Mass. 546. And legal easements cannot be created by deed in favor of a third party. See *Owen* v. *Field*, 102 Mass. 90, 115; *cf. Haverhill Savings Bank* v. *Griffin*, 184 Mass. 419, 68 N. E. 839. But see *Gibert* v. *Peteler*, 38 Barb. (N. Y.) 488, 514.

STATUTE OF FRAUDS — INTERESTS IN LAND — PAROL SURRENDER OF FINAL YEAR OF LEASE. — In consideration of the lessor's oral promise to pay a certain sum, the lessee orally agreed to surrender at the beginning of the year, the last year of a six-year lease. The lessor later repudiated the agreement on the ground that the state statute of frauds required "the creation, grant, assignment, or surrender of any estate or interest in lands other than leases for a term not exceeding one year" to be in writing. WIS. STAT. (1913), § 2302. The lessee now sues to enforce the lessor's promise to pay. *Held*, that he can recover. *Garrick Theatre Co.* v. *Gimbel Bros.*, 149 N. W. 385 (Wis.).

Before the statute of frauds any lease in possession could be surrendered by parol. *Gwyn* v. *Wellborn*, 1 Dev. & Bat. (N. C.) 313. See *Schieffelin* v. *Carpenter*, 15 Wend. (N. Y.) 400, 405. Under the statute, even in the form which provides that "no lease, estate, or interest in land shall be surrendered unless by deed or note in writing," or by operation of law, the weight of American authority allows surrender by parol of terms creatable by parol. *Kiester* v. *Miller*, 25 Pa. 481; *Ross* v. *Schneider*, 30 Ind. 423. *Contra*, *Mollet* v. *Brayne*, 2 Camp. 103. Under the form of statute in force in the principal case, the validity of such parol surrenders is expressly recognized. Accordingly, as the statute clearly refers to the length of the term transferred, not to the length of the estate from which it was carved, a parol surrender of an unexpired year or less of a term should be valid. *Smith* v. *Devlin*, 23 N. Y. 363; but see *Kittle* v. *St. John*, 7 Neb. 73, 75. In the principal case, the surrender was to operate in the future. Under the ordinary form of the statute, however, a term for years may be created to begin in the future. *Young* v. *Dake*, 5 N. Y. 463; *Baumgarten* v. *Cohn*, 141 Wis. 315, 124 N. W. 288. Since a surrender is but a re-demise of part of the lease, the decision seems correct in holding that a surrender *in futuro* should be equally valid. *Allen* v. *Jaquish*, 21 Wend. (N. Y.) 628; see 2 REED, STATUTE OF FRAUDS, § 771.

STREET RAILWAYS — TORT LIABILITY — CONTRIBUTORY NEGLIGENCE DETERMINED BY RELIANCE ON OBSERVANCE OF STATUTORY DUTY. — The plaintiff, a truck driver, on approaching the defendants' tracks, looked for a car from a place where he had an unobstructed view far enough to see any car which could have reached him, if running at the rate of speed required by an ordinance. He then went on the track without looking again, and was struck by a car running at an illegal speed. The plaintiff offered no evidence to prove that he knew of the ordinance or relied upon it. The court below directed a verdict for the defendant. *Held*, that the directed verdict was

proper. *Voelker Products Co.* v. *United Rys. Co. of St. Louis*, 170 S. W. 332 (Mo. App.).

The case is particularly interesting as a vigorous denial of the fiction that a man is presumed to know the law, which grew up as an expression of the principle that ignorance of the law is no excuse. See *Regina* v. *Coote*, 9 Moo. P. C. N. S. 463; *Mackowik* v. *Kansas City, St. J. & C. B. R. Co.*, 196 Mo. 550, 571, 94 S. W. 256. In putting on the plaintiff the burden of proving his reliance on the defendants' performance of its statutory duty, however, the court seems to have gone too far in the opposite direction, and to have formulated a presumption that a man knows nothing about the law. According to the local law, the burden of proving the plaintiff's contributory negligence was on the defendant. *Bluedorn* v. *Missouri Pacific Ry. Co.*, 24 S. W. 57 (Mo.). And Missouri does not purport to follow the artificial Pennsylvania doctrine that a man who does not "stop, look, and listen" at the edge of the track is negligent as a matter of law. *Rissler* v. *St. Louis Transit Co.*, 113 Mo. App. 120, 124, 87 S. W. 578, 580. *Cf. Burke* v. *Union Traction Co.*, 198 Pa. St. 497, 48 Atl. 470. To entitle the defendant to a directed verdict, therefore, it was necessary to show conduct on the part of the plaintiff which could not reasonably be found consistent with due care. In the principal case, however, the only evidence before the court showed a course of action which might have been either careful or negligent, according as the plaintiff relied on the observance of the statute or not. *Baltimore & O. S. W. Ry. Co.* v. *Then*, 159 Ill. 535, 42 N. E. 971. The court's presumption of ignorance of the statute seems a strange one, for it is reasonable to suppose that a driver would be familiar with the speed laws of the city. See *Schmidt* v. *Burlington, C. R. & N. Ry. Co.*, 75 Ia. 606, 39 N. W. 916.

TAXATION — PARTICULAR FORMS OF TAXATION — NEW YORK TRANSFER TAX: TAXATION OF RIGHT OF SURVIVORSHIP. — The owner of stock in a certain corporation, by vote of the corporation, was entitled to the total net income for life, and had certain of the shares reissued to himself and another, and the survivor of them. This transfer was gratuitous, and the donor reserved the right to vote the stock as well as the right to annul the donee's interest during his life. The donor died after the passage of the Transfer Tax Act. *Held*, that the survivor's interest is taxable. *Matter of Dana Co.*, 164 N. Y. App. Div. 44.

The New York Transfer Tax law provides that any transfer of property intended to take effect "in possession and enjoyment" after the death of the donor shall be taxable. CONSOL. LAWS, N. Y., TAX LAW, § 220, subd. 4, 5. It is not necessary that the transfer be made in contemplation of death. See *Matter of Brandreth*, 169 N. Y. 437, 441, 62 N. E. 563, 564. But ordinarily a gift *inter vivos*, not made in contemplation of death, will not be taxable. *Matter of Spaulding*, 163 N. Y. 607, 57 N. E. 1124. See MCELROY, TRANSFER TAX LAW, 2 ed., § 148. It has been held, however, that a gift of stock *inter vivos* is taxable where all the dividends, as well as the right to vote the stock, are reserved to the donor for his life, so that the gift is intended to rest in enjoyment after his death. *Matter of Brandreth, supra*. The test laid down by the courts, under a broad construction of the statute, is whether or not the enjoyment of the property by the transferee begins at or after the death of the transferor. The principal case, therefore, is clearly correct, although it might not be proper to reach the same result in the ordinary case of joint interests.

TRADE MARKS AND TRADE NAMES — PROTECTION APART FROM STATUTE — PURCHASE OF A NAME BY A CORPORATION FOR PURPOSES OF UNFAIR COMPETITION. — Arthur A. Waterman had established a small and unsuccessful